

1
2
3
4
5
6 IN THE UNITED STATES DISTRICT COURT
7
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA

9 SARAH ISBELL,

No. C 18-00269 WHA

10 Plaintiff,

11 **ORDER ADOPTING REPORT**
12 **AND RECOMMENDATION**

13 v.

14 STATE OF OKLAHOMA, *et al.*,

15 Defendant.
16 _____/

17 **INTRODUCTION**

18 In this civil rights action, Magistrate Judge Robert Illman has filed a Report and
19 Recommendation regarding dismissal of the complaint. For the reasons below, the Report and
20 Recommendation is **ADOPTED** and the complaint is **DISMISSED**.

21 **STATEMENT**

22 On January 11, *pro se* plaintiff Sarah Isbell brought this action against (1) the State of
23 Oklahoma and its Department of Human Services, (2) Jim Hutchinson, the Director of the
24 Oklahoma Department of Health and Human Services, in his official and individual capacities, (3)
25 the State of California and its Department of Human Services, and (4) Alisha Griffin, the Director
26 of the California Department of Child Support Services, in her official and individual capacities.
27 Plaintiff seeks relief under the ADA, the Rehabilitation Act of 1973, the Fair Credit Reporting Act,
28 and 42 U.S.C. § 1983 (Dkt. No. 1).

On March 13, after reviewing the complaint, Magistrate Judge Robert Illman filed a Report
and Recommendation. Judge Illman found the complaint challenged an Oklahoma state court
judgment ordering plaintiff to pay monthly child support and further challenged subsequent actions

1 taken by defendants to enforce the judgment. Judge Illman also determined it was unclear whether
2 plaintiff sought to pursue claims against defendants separate and apart from her de facto appeal
3 from the state court judgment and accordingly recommended dismissing the action for lack of
4 jurisdiction with leave to amend. Plaintiff filed her objections to the Report and Recommendation
5 on April 5 (Dkt. Nos. 17, 27).

6 ANALYSIS

7 Where a party objects to a Report and Recommendation, “[a] judge of the [district] court
8 shall make a de novo determination of those portions of the [Report and Recommendation] to
9 which objection is made.” 28 U.S.C. § 636(b)(1). Plaintiff objects on two grounds.

10 Plaintiff first argues that the *Rooker-Feldman* doctrine is inapplicable to this action because
11 the Oklahoma child support order is not a “final judgment.” Not so. The *Rooker-Feldman* doctrine
12 applies not just to final state court orders and judgments, but also to interlocutory orders and
13 non-final judgments issued by a state court. *Doe & Assoc. Law Offices v. Napolitano*, 252 F.3d
14 1026, 1030 (9th Cir. 2001). “Because district courts lack power to hear direct appeals from state
15 court decisions, they must decline jurisdiction whenever they are ‘in essence called upon to review
16 the state court decision.’” *Ibid.* (quoting *D.C. Ct. of App. v. Feldman*, 460 U.S. 462, 482 n.16
17 (1983)).

18 Plaintiff next contends that even if the support order is subject to *Rooker-Feldman*, the “vast
19 majority” of her complaint relates to enforcement actions taken by defendants *after* issuance of the
20 Oklahoma court’s judgment. To the extent her claims relate to actions taken prior to issuance of the
21 judgment, plaintiff states that her claims are directed at defendants’ policies, practices and decisions
22 “which impair her Constitutional rights, not as a de facto appeal of the state court support order.”
23 Despite this objection, plaintiff seeks leave to “withdraw[] any statement” in her complaint “which
24 could be read to call on this court to conduct a direct appellate review of legal errors by the state
25 court” and to amend her complaint so as to “restate her claims to more specifically clarify facts
26 supporting her claims” (Dkt. No. 27 at 4, 20).

27 This order agrees with the Report and Recommendation’s finding that, as currently pled, the
28 complaint is unclear as to whether plaintiff is pursuing claims apart from the attempted de facto


1 appeal. "A federal action constitutes such a de facto appeal where 'claims raised in the federal
2 court action are 'inextricably intertwined' with the state court's decision such that the adjudication
3 of the federal claims would undercut the state ruling or require the district court to interpret the
4 application of state laws or procedural rules.'" *Reusser v. Wachovia Bank, N.A.*, 525 F.3d 855, 859
5 (9th Cir. 2008). This order also agrees that plaintiff should be granted leave to amend the
6 complaint in order to clarify her claims.

7 **CONCLUSION**

8 For the reasons stated herein, the Report and Recommendation is **ADOPTED**. The complaint
9 is accordingly **DISMISSED**. By **MAY 11**, plaintiff may file an amendment complaint raising any
10 claims which are not inextricably intertwined with the Oklahoma court's judgment and not
11 otherwise subject to dismissal.

12
13 **IT IS SO ORDERED.**

14
15 Dated: April 12, 2018.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE